

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|--|--------------|-------------------|--------------------------------|
| Application No.: | 10/604,011 | Conf. No.: | 1010 |
| Applicant: | Greco et al. | TC/AU: | 1756 |
| Filed: | 06/20/03 | Examiner: | Chacko Davis, Daborah |
| Customer No.: | 23550 | Docket: | FIS920030144US1 (IBMF-0019) |
| Title: INTEGRATED CIRCUIT FUSE AND METHOD OF OPENING | | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request a panel of experienced examiners perform a detailed review of appealable issues for the above-identified patent application pursuant to the Pre-Appeal Brief Conference Pilot Program. Applicants submit that the above-identified application is not in condition for appeal because the Office has failed to establish proper rejections based on an error in fact and in law. Claims 1-5 and 7-30 are pending in this application.

Turning to the rejection, in the Final Office Action, claims 1-4 and 7-30 are rejected under 35 U.S.C. §102(e) as allegedly being unpatentable over Daubenspeck et al. (U.S. Patent No. 6,498,385), hereinafter “Daubenspeck”. Claim 5 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Daubenspeck in view of Huggins (U.S. Patent No. 5,953,577), hereinafter “Huggins”. Applicants submit that these rejections are clearly not proper and without basis. Applicants submit that the application is not in condition for appeal because the rejections are defective due to errors in fact and in law.

As argued in the February 28, 2006 After-Final Amendment, at least one feature of the claimed invention is not taught by the reference. With regard to claim 1, Daubenspeck fails to disclose, *inter alia*, a fuse element in a non-last metal layer as claimed in claim 1 of the claimed invention. See After-Final Amendment, page 8. The fuse 114 of Daubenspeck is clearly never in the non-last metal layer. In FIGS. 1A-1G, layers 108a, 108b are referred to as the last metal layer minus one (LM-1). See also, col. 8, line 56. As such, fuse 114 is in the last metal layer. Indeed, the only way the fuse can be blown is by being in the last metal layer where the laser deletion can occur. Based on the foregoing, Applicants submit that the rejection includes a factual error and the application is not in condition for appeal.

With respect to claim 26, Daubenspeck fails to disclose, *inter alia*, that each terminal is fully-landed on an upper surface of a wire of the fuse element. See After-Final Amendment, page 10. The Office alleges that this feature is depicted in figure 1G of Daubenspeck. Clearly, as figure 1G shows, the fuse terminals 114a and 114e are in the same layer as fuse line 114c. Therefore, it is technically illogical for the terminals to land on the upper surface of a wire of the fuse element. Accordingly, Applicants respectfully submit that without references that support the Office's allegation, the rejection is improper and the application is not in condition for appeal.

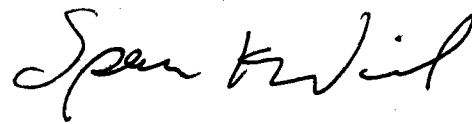
Finally, with respect to claims 1 and 30, Daubenspeck fails to disclose, *inter alia*, wet etching the fuse element to open the fuse. See After-Final Amendment, pages 9, 10. In fact, the only method for opening a fuse disclosed in Daubenspeck is laser deletion. See col. 10, line 64-66. There is no disclosure for etching of any type to open the fuse in Daubenspeck. See After-Final Amendment, page 9. In the Office Action, the Office asserts that Daubenspeck discloses

wet etching to open fuse elements and cites figures 7A through 7D and column 3, lines 62-66 for support. See Office Action, pages 2, 3 and 5. The Office, however, is confusing Daubenspeck's use of etching to remove portions of copper to form the fuse with using etching to open the fuse, as recited. Accordingly, Applicants respectfully submit that without references that support the Office's allegation, the rejection is improper.

With respect to features in the dependent claims not specifically referenced herein, the dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

Applicants respectfully submit that the application is not in condition for appeal. Should the examining panel believe that anything further is necessary to place the application in better condition for allowance or for appeal, they are requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



Spencer K. Warnick
Reg. No. 40,398

Date: April 28, 2005

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

SKW/jjc